

AGENDA MEMO

CITY COUNCIL MEETING DATE: AUGUST 16, 2006

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-13888 - APPLICANT/OWNER: JOSE SANDOVAL

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission's motion for approval failed with a 3-3 tie vote, therefore, no recommendation will be forwarded to City Council.

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Rezoning (ZON-13889), General Plan Amendment (GPA-13885) and Site Development Plan Review (SDR-13886) shall be required.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

APPLICATION REQUEST

This application is a request for a Variance to allow a front yard setback of eight feet where 20 feet is required, a rear yard setback of eight feet where 20 feet is required and a residential adjacency setback of eight feet where 66 feet is required on 0.38 acre at 2750 Harris Avenue.

EXECUTIVE SUMMARY

The proposed multi-family development requests setbacks of eight feet where 20 feet is required. The landscape buffer on the north side of the property bordering Harris Avenue is eight feet where 10 feet is required. Additionally, the buildings as proposed are too close to existing single-family properties to meet Residential Adjacency Standards. All of the inadequacies listed above violate the R-3 (Medium Density Residential) development standards. Since the buildings could have been designed to conform to Zoning Code standards, the recommendation is for denial.

BACKGROUND INFORMATION

A) Related Actions

- 07/13/06 The Planning Commission recommended approval of companion items GPA-13885 and ZON-13889 and denial of SDR-13886 concurrently with this application.
- 07/13/06 The Planning Commission's motion for approval failed with a 3-3 tie vote, (PC Agenda Item #33/ejb).

B) Pre-Application Meeting

- 05/17/06 A pre-application meeting was held to discuss the applicable General Plan Amendment, Rezoning, Site Development Plan Review and Variance on the subject property.

C) *Neighborhood Meetings*

06/20/06	A neighborhood meeting sponsored by the applicant was held at the East Las Vegas Senior Center at 250 North Eastern Avenue. No citizens were in attendance.
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D) Code Enforcement Information

Code Enforcement indicates that there is an open violation of an illegally un-permitted structure on the subject property. The violation has been ongoing since 03/07/06. Code Enforcement also indicates that they are in the process of citing the owner for the subject violation.

DETAILS OF APPLICATION REQUEST

A) Site Area

Net Acres: 0.38 Acres

B) Existing Land Use

Subject Property:	Single Family Residence
North:	Elementary School
South:	Single Family Residence
East:	Single Family Residence
West:	Single Family Residence

C) *Planned Land Use*

Subject Property:	L (Low Density Residential) – proposed M (Medium Density Residential)
North:	PF (Public Facilities)
South:	L (Low Density Residential)
East:	M (Medium Density Residential)
West:	L (Low Density Residential)

D) Existing Zoning

Subject Property:	R-E (Residence Estates) proposed R-3 (Limited Multiple Residence)
North:	C-V (Civic)
South:	R-E (Residence Estates)
East:	R-E (Residence Estates)
West:	R-E (Residence Estates)

E) General Plan Compliance

The subject site is located within the Southeast Sector of the General Plan with an L (Low Density Residential) land use designation, which allows for residential development of up to 5.49 dwelling units per acre. A concurrent application proposed to amend the General Plan to M (Medium Density Residential) which allows for density up to 25.49 dwelling units per acre. The proposed rezoning to the R-3 (Medium Density Residential) zoning district is consistent with the proposed Medium Density Residential General Plan designation.

<i>SPECIAL DISTRICTS/ZONES</i>	Yes	No
Special Area Plan		X
Special Overlay District		X
Trails		X
Rural Preservation Overlay District		X
County/North Las Vegas/HOA Notification		X
Development Impact Notification Assessment		X
Project of Regional Significance		X

ANALYSIS

A) Zoning Code Compliance

A1) Development Standards

Pursuant to Title 19.08, the following Development Standards apply to the subject proposal:

Standards	Required	Requested	Compliance
Min. Lot Size	6,500 Square Feet	16,550 Square Feet	Y
Min. Setbacks			
• Front	20 Feet	8 Feet	N
• Side	5 Feet	10 Feet	Y
• Corner	5 Feet	10 Feet	Y
• Rear	20 Feet	8 Feet	N
Max. Building Height	2 Stories / 35 Feet	2 Stories/ 22 Feet	Y
Trash Enclosure	50 Feet	49 Feet	N

The subject deviation for front and rear yard setbacks is 60%. The subject deviation for the trash enclosure is less than 1%. A condition of approval of the accompanying Site Development Plan Review is imposed to require the trash enclosure be moved to a minimum of 50 feet from the nearest residentially zoned property.

A2) Residential Adjacency Standards

Pursuant to Title 19.08, the following Residential Adjacency Standards apply to the subject proposal:

- a) Proximity slope. The proposed multi-family development does not meet the 3:1 residential adjacency slope to a R-E (Residential Estates) zoned property as required by Title 19.08.060 with a maximum building height of 22 feet. The multi-family development is required to be located a minimum of 66 feet from the adjacent single family property line and the site plan shows 8 feet. The subject deviation is 88%.
- b) Building setback. The adjoining western property is zoned R-E and has a minimum side yard setback of 10 feet. Residential Adjacency Standards state that the side yard setback of the proposed multi-family development must match the side setback of the single family home. The applicant provides 10 feet where 10 feet is required; therefore there is no deviation.

B) General Analysis and Discussion

The variances requested are related to setbacks and the residential adjacency requirement. The two buildings on the site are located 10 feet, 8 inches from single family properties where 66 feet is required, the front and rear yard setbacks do not conform to R-3 (Medium Density Residential) standards. The buildings can be designed in a different configuration that allows for compliance with R-3 development standards; therefore, denial is recommended.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

- 1. Permit a use in a zoning district in which the use is not allowed;
- 2. Vary any minimum spacing requirement between uses;
- 3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief

may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by selecting a building design that does not conform to the requirements set forth by the requested zoning category. Alternative site and building design would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 11

ASSEMBLY DISTRICT 28

SENATE DISTRICT 2

NOTICES MAILED 99 by City Clerk

APPROVALS 0

PROTESTS 0